DOCUMENT RESUME

ED 362 756 CE 064 861

TITLE	Regulations of the Commissioner. Part 59--General Provisions (Amended, Effective October 14, 1993).
INSTITUTION	New York State Education Dept., Albany.
PUB DATE	14 Oct 93
NOTE	5p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Certification; *Legal Responsibility; *Licensing Examinations (Professions); Postsecondary Education; Professional Occupations; *State Legislation; State Licensing Boards; *State Standards
IDENTIFIERS	*New York

ABSTRACT

This document contains the general provisions issued pursuant to Title VIII of the Education Law in New York State to obtain a license to practice a profession or to use a professional title. The provisions apply to admission to the licensing examination and to the issuance of licenses in each of the professions supervised by the Board of Regents. These regulations cover the following: education requirements, English proficiency requirements, citizenship or immigration requirements, professional examinations, license by endorsement, licences and initial registrations, registration for professional practice, special service fees, professional service corporations, refunds, training regarding child abuse and maltreatment reporting, and training regarding infection control practices. (KC)

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Regulations of the Commissioner

Part 59 - General Provisions
(Amended, effective October 14, 1993)

Section 59.1 Applicability.

(a) As used in this subchapter, license shall mean a permanent authorization, issued pursuant to title VIII of the Education Law, to practice a profession or to use a professional title.

(b) The provisions of this Part shall apply to admission to the licensing examination and to the issuance of licenses in each of the professions supervised by the Board of Regents except as may otherwise be provided in this Subchapter with respect to specific professions.

59.2 Education requirements.

(a) An applicant for a professional license shall satisfy all education requirements before being admitted to a professional licensing examination, except that the department may accept professional examination grades earned in another state or jurisdiction of the United States prior to completion of professional education if the applicant was licensed in that jurisdiction on the basis of said examination and both the grades and the examination satisfy requirements in this State. Education requirements for a professional license shall include any preprofessional education or experience required as a prerequisite for admission to a registered program of professional education. The department, in its discretion, may accept in satisfaction of a professional education requirement, the completion of an approved or registered program or a program accredited by a professional accreditation organization acceptable to the department. The department, in its discretion, may also accept graduation by a transfer student from such a program, provided such student has completed not less than the final year of professional education in such program subsequent to the date of approval, registration or accreditation of the program and approval of the accrediting organization by the department. The department may accept graduation by a transfer student from an unaccredited program of professional education, provided such student satisfies the educational requirements of statute and regulation in accordance with this Part and as otherwise provided in this Subchapter with respect to the specific profession, and further provided that such student completes not less than the final year in the unaccredited program to which he has transferred.

(b) Education and experience required for the issuance of a license or limited permit shall have been performed in accordance with all requirements of the jurisdiction in which it took place. The department may require contemporaneous evidence of the education and/or experience required for the issuance of a license or limited permit.

59.3 English proficiency requirement.

An applicant for licensure whose application is based upon credit granted for the completion of courses of study in a country where English is not the principal language spoken shall demonstrate proficiency in English by passing an examination in English proficiency acceptable to the department or by passing a licensing examination acceptable to the department given in English.

59.4 Citizenship or immigration status requirements.

In those professions where citizenship or immigration status is required for licensure, an applicant shall submit evidence satisfactory to the department of compliance with such requirement.

59.5 Professional examinations.

(a) The department may develop its own examinations or may select in whole or in part examinations developed or administered by other organizations. Unless specifically authorized by the department, no examination shall be deemed acceptable which has been used in its entirety during the five years previous to the current administration.

(b) Applications for admission to a licensing examination, including all required fees shall be completed and filed not less than 60 days prior to the examination. When the department finds that the application is complete and that the requirements for admission to an examination have been met, it will issue to the applicant an admission card which will include the date, time and place of the examination and entitle the applicant to admission thereto.

(1) The department may accept applications for admission to department conducted examinations after the filing date for such examinations provided that the department is able to review and process such applications in a timely manner and that there are adequate examination facilities and materials available. Such applications shall require the payment of the late filing fee enumerated in Section 59.9, which shall be in addition to the regular admission or reexamination fee. If, upon review of a late application, the department determines that the applicant is ineligible to be admitted to the examination, the department shall retain the late filing fee. In the event that the department is unable to review a late application, the late filing fee shall be refunded.

(2) The department may waive the late filing fee or delay the required date for filing in cases where notification to the applicant of the results of the previous examination are released less than 75 days prior to the next examination.

(c) For the purpose of identification for admission to the examination, the applicant shall present the current admission card with a photograph attached and, at the conclusion of the

examination, return the card to the department representative conducting the examination. A candidate shall permit fingerprints to be taken during each part of an examination.

(d) Licensing examinations shall be held at times and places determined by the commissioner and conducted under the following conditions. Any candidate violating such conditions may be dismissed from the examination by the department representative, and the examination paper of such candidate shall be deemed a failure. At the discretion of the department, such candidate may be denied admission to subsequent licensing examinations.

(1) No candidate shall enter any examination more than 60 minutes after the scheduled admission time, nor shall any candidate leave the examination until 60 minutes have elapsed from the scheduled admission time. No candidate shall leave a department administered practical or clinical examination until dismissed by the chief examiner.

(2) Compensatory time may be granted candidates arriving late for an examination, at the discretion of the department.

(3) A candidate shall not obtain unauthorized possession of examination materials.

(4) During the examination, no candidate shall give or receive help, or communicate with any other candidate in any way, except upon the express permission of the department representative.

(5) A candidate shall bring into the examination room only such books and other materials as are indicated on the admission card and permitted by the department.

(6) A candidate shall not remove from the examination room any of the materials provided for an examination, and shall not reproduce or reconstruct any portion of the examination or answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. Such materials include examination booklets, individual examination questions, answer sheets or score sheets, instructions and any reference tables or papers which were provided by the department and which may have been used in the course of the examination.

(e) Papers will be scored and candidates notified of success or failure by the department or its designee. If the candidate has failed, the department will advise when and on what basis the candidate may be reexamined and of any procedure for review of the failed examination.

(f) The passing score in each component of each part of the licensing examination shall be determined as provided by law and shall be computed without rounding. In those examinations administered by the department, unless otherwise provided in the regulations pertaining to a specific profession, a candidate may retain credit for scores earned on examination parts for a period not to exceed five years from the examination date. A candidate who is reexamined in a part already passed shall not retain credit for such part from earlier examinations. In those professions which use national or regional examinations administered by the Department, this subdivision shall apply whether or not the examination is taken in the State of New York.

(g) In those professions where reviews of examination papers are permitted, candidates will be allowed to review only those parts of the examination which they failed with a score of 60 or higher. In those professions which permit candidates to pass on average all scores used in computing the average are reviewable. A request for review of an examination paper or score may be made in writing to the department not later than 30 days after examination grades are released by the department. A candidate shall not remove from the reviewing site any of the materials provided for the review of an examination given previously, and shall not reproduce or reconstruct any portion of the examination or the answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. No one other than the candidate will be permitted access to examination materials. Where examinations are offered under contract with testing agencies, reviews shall be consistent with these contracts, where applicable. All reviews shall be conducted at sites selected and supervised by the department or an authorized testing agency.

(h) An applicant who has been admitted to a professional licensing examination conducted by the department and subsequently fails to appear for such an examination twice shall forfeit any remaining fee credits for that examination. The applicant, upon subsequently applying for readmission to that examination, shall pay all required admission fees.

59.6 License by endorsement.

An applicant for endorsement of a license issued by another jurisdiction shall establish that the applicant:

(a) meets all requirements of section 6506 (6) of the Education Law;

(b) has had satisfactory professional experience of at least two years following initial licensure, unless a different period is provided in the regulations pertaining to a particular profession; and

(c) has not attempted unsuccessfully a licensing examination used by the State of New York either prior to or after making application for licensure by endorsement, unless such applicant has later passed a comparable licensing examination.

59.7 Licenses and initial registrations.

When the candidate fulfills all requirements for licensure, the department shall issue a first registration certificate and a license. The first registration shall be for the remainder of the applicable registration period. Pursuant to section 6502 of the Education Law the registration fee shall be pro-rated for those persons newly licensed and registered, or reactivating registration, during the second or third year of a registration period.

59.8 Registration for professional practice.

(a) Each licensee shall be responsible for registering with the department. Failure to register shall subject the practitioner to the late fee set forth in section 6502 (3) of the Education Law. Any practitioner who willfully refuses to register shall be subject to the penalties set forth in section 6511 of such law.

(b) A licensee not practicing or using a restricted title in New York State or an individual practicing only in a setting which is exempt from licensure in accordance with law may allow registration to lapse without being subject to the late fee set forth in section 6502 of the Education Law, by notifying the department of their cessation of practice or exemption in the State. At such time as the licensee may choose to resume practice or enter practice in a nonexempt setting in New York State, a registration certificate may be issued upon the filing of a proper application and the payment of the required registration fee.

(c) Registration certificates shall be conspicuously displayed by each licensee in each office in which the profession is practiced. In instances

where licensees regularly practice at more than one professional office, registration certificates shall be obtained for each office bearing the licensee's name and the exact address of each such office upon making proper application to the department and submitting a fee. Where practice is carried on in other than individual offices, each licensee shall have a current registration certificate available for inspection at all times.

(d) Registration periods for each profession shall be in accordance with schedules established by the department.

(e) Each professional practitioner shall notify the department in writing of any change of name or address not later than 30 days after such change.

(f) When an applicant or licensee pays a fee by a personal check and it is subsequently not honored by the issuing institution, the applicant or licensee must subsequently pay by a certified check, a bank check, or a money order. The replacement payment shall include any late and penalty charges required under section 6502 (3) and (7) of the Education Law.

(g) Any licensee who fails to submit a replacement registration payment as required in subdivision (f) of this section, shall have his or her registration voided 60 days from the date the department sends notification that said fee was not honored by the issuing institution.

59.9 Special service fees.

The department will charge the following fees for special services not otherwise provided by Education Law:

(a) for the issuance of a trainee permit in ophthalmic dispensing, $25;

(b) for certification of completion of pharmacy internship, $20;

(c) for admission to the fundamental theory section of the examination in landscape architecture, $50 and for each subsequent reexamination, $50, the remainder of the fee set forth in section 7324 of the Education Law to be paid prior to admission to the remainder of the examination;

(d) for certification of licensure or examination grades to another jurisdiction, $20;

(e) for certification in acupuncture of a licensed physician or dentist, $150;

(f) for the issuance of an additional registration certificate, $10;

(g) for the issuance of a letter of eligibility to undertake clinical clerkships, $30;

(h) for the issuance of a Medical Sciences Knowledge Profile (MSKP) or satisfactory equivalent examination certificate to undertake clinical clerkships, $20;

(i) for review by the department of an examination conducted by the department, $25;

(j) for rescoring of an examination conducted by the department, $20;

(k) for verification by the department of the transcript of an applicant or licensee, $20;

(l) for admission to the Special Purpose Examination (SPEX) in medicine, $175;

(m) for late filing for admission to a licensing examination, $50; and

(n) for written verification of licensure and/or registration status, $10.

59.10 Professional service corporations.

(a) Applications to the State Education Department for the issuance of a certificate pursuant to Business Corporation Law section 1503(b)(ii), shall be made by submitting to the department a fully executed certificate of incorporation which complies with the provisions of such section and of section 1512 of such law, and which sets forth or has annexed to it an affidavit of one of the original officers, directors or shareholders of the corporation setting forth the name of each individual who is to be one of the original shareholders, directors or officers of the corporation.

(b) If the name of a proposed professional service corporation contains the name of a deceased person, the certificate of incorporation, when submitted to the department for the issuance of a certificate pursuant to Business Corporation Law, section 1503 (b) (ii) shall be accompanied by an affidavit of one of the subscribers to the certificate of incorporation establishing compliance with the provisions of Business Corporation Law, section 1512 (a) (2).

(c) A certificate pursuant to Business Corporation Law, section 1503 (b) (ii) may be issued when:

(1) the proposed name of the corporation appropriately describes the profession practiced and the services to be provided; and

(2) if the proposed name of the corporation includes a reference to a specialized area of professional practice, satisfactory evidence is submitted of compliance with any provision of Part 29 of this Title, rules of the Board of Regents restricting or regulating the use of specialty titles or announcements of limitations of practice in the particular profession.

59.11 Refunds.

Monies received by the State Education Department pursuant to section 110 of the Education Law, may be refunded as follows:

(a) Full refunds maybe granted when:

(1) The fee submitted is an overpayment;

(2) The requested service cannot be provided;

(3) A written request for the refund of a registration fee is received prior to the beginning of that registration period; or

(4) A registrant who has paid a registration fee is deceased prior to the beginning of that registration period and a written refund request is received within one year of the date of death.

(b) Partial refunds not to exceed 50 percent of the licensure application fee may be granted if an applicant for any practice authorization elects to withdraw such application prior to the issuance or denial by the department of such authorization, and such applicant has not been admitted to a department conducted examination. Each applicant who has at any time withdrawn an application and received a refund shall be required to pay in full all fees upon submitting any subsequent application.

59.12 Training regarding child abuse and maltreatment reporting.

(a) All persons applying on or after January 1,1991 for the issuance or renewal of a license/registration or limited permit in medicine, chiropractic, dentistry, dental hygiene, registered professional nursing, podiatry, optometry, psychology and any other professions listed in section 6507(3)(a) of the Education Law shall submit documentation acceptable to the

department of the completion of two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment and obtained either from a provider approved by the department pursuant to Part 57 of this Title or as a matriculant in a registered program under Section 52.2 (c)(12) of this Title, unless the applicant receives an exemption from such requirement as provided in subdivision (b) of this section.

(b) The department may exempt an applicant or licensee from the coursework or training requirement of subdivision (a) upon receipt of a written application for such exemption establishing that there would be no need to complete the coursework or training because the nature of the applicant's/licensee's practice excludes contact with children. It is the professional responsibility of the licensee who holds an exemption to notify the department in writing, within 30 days, when the nature of the practice changes to the extent that the basis for exemption ceases to exist.

59.13 Training regarding infection control practices.

(a) Commencing July 2, 1994, all persons applying for the issuance of a license or renewal of a registration in dentistry, registered professional nursing, licensed practical nursing, podiatry, optometry, dental hygiene, or any other profession subject to the requirements of section 6505-b of the Education Law shall affirm to the department, and maintain and/or submit such documentation as the department may require, that they have completed, in the four years immediately preceding such application, course work or training in infection control and barrier precautions which is approved by the department, pursuant to Part 58 of this Title, or which is approved as part of a program registered pursuant to Part 52 of this Title. As provided in subdivision (b) of this section, an applicant may be exempted from the infection control and barrier precautions course work or training requirement; or as provided in subdivision (c) of this section, may be exempted from the requirement to document the completion of such course work or training.

(b) The department may exempt an applicant for registration from the course work or training required pursuant to subdivision (a) of this section either upon receipt of:

(1) a written application for such exemption establishing that there would be no need to complete the course work or training because the nature of the applicant's/licensee's practice does not require the use of infection control techniques or barrier precautions; or

(2) documentation satisfactory to the department that the applicant/licensee has completed course work or training equivalent to that approved by the department, pursuant to Part 58 of this Title.

(c) Maintenance or submittal of documentation pursuant to subdivision (a) of this section is not required of any dentist or podiatrist who is subject to the provisions of paragraph (f) of subdivision (1) of section 2805-k of the Public Health Law and who attests at the time of registration that documentation requirements have been met as required in the Public Health Law.

(d) If there are changes in the nature of the practice of a licensee who has been granted an exemption under paragraph (b)(1) of this section and such changes require the licensee to use infection control techniques or barrier precautions, the licensee shall notify the department in writing of the change within 30 days of such change. If the licensee has not taken approved course work or training in infection control and barrier precautions during the four years immediately preceding the change in practice, the licensee shall obtain such course work or training within 90 days of the change in practice.